

DAC #5

PTO/SB/64 (18-05)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
RECEIVED
07/06/06394

First named inventor: Andreas FATH

OCT 24 2006

Application No.: 10/534,560

Art Unit: 1713

OFFICE OF PETITIONS

Filed: May 11, 2005

Examiner: NOT YET ASSIGNED

Title: COATING METHOD

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

10/23/2006 HDESS1 00000033 041679 10534560
01 FC:1453 1500.00 DA

RECEIVED
27 OCT 2006

NOTE: If information or assistance is needed in completing this form, please contact **Legal Staff**
Information at (571) 272-3282. **Patent Division**

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

- ☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- ☒ Other than small entity - fee \$ 1500.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of First submission under 35 USC 371 (identify type of reply):

- ☒ has been filed previously (nat'l phase entry: May 11, 2005; successful official fee charge: Jan. 23, 2006)
- ☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Stephan Gribok
Signature

Oct. 18, 2006
Date

Stephan P. Gribok

Typed or printed name

29,643

Registration Number, if applicable

Duane Morris LLP

Address

215-979-1283

Telephone Number

30 South 17th Street, Philadelphia PA 19103-4196

Address

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Fee Transmittal Form

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

October 18, 2006

Date

Stephan Gribok
Signature

Stephan P. Gribok

Typed or printed name of person signing certificate



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Appln. of: Andreas FATH
Serial No.: 10/534,560
Filed: May 11, 2005
For: COATING METHOD

Examiner:

Group Art Unit:

Atty Docket No.: D4700-00394

RECEIVED

OCT 24 2006

OFFICE OF PETITIONS

**STATEMENT IN SUPPORT OF PETITION TO REVIVE APPLICATION
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

<p>CERTIFICATE OF MAILING, 37 C.F.R. §1.8(a)</p> <p>I certify that this correspondence and the enclosures mentioned therein are being deposited by First Class U.S. Mail with sufficient postage on the date shown below, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.</p> <p><i>Stephen P. Gribok</i> Stephen P. Gribok, Reg. No. 29,643 <u>Oct. 18, 2006</u> Date</p>

Sir:

The undersigned attorney of record states in support of a petition to revive the application in the US national phase on grounds that abandonment was unintentional, **that the entire delay in filing the required reply (namely official fees required upon entry into the US national phase) until the filing of the present petition under 37 C.F.R. §1.137(b) was unintentional.**

The application was held abandoned for nonpayment of the national phase filing fees by the deadline of 30 months. Applicant had attempted upon entering the national phase to submit the national phase filing fees by Deposit Account charge authorization. After a delay during which no communications were received from the PTO, the undersigned learned that the PTO considered the Deposit Account to which the charge was made to lack sufficient funds at the time the charge was made, and accordingly the PTO had not charged the Deposit Account as requested and the fee was regarded as unpaid.

Applicant then filed a petition to revive the application on grounds that the delay was unavoidable, and submitted a new charge authorization to pay the official fee and the petition fee. Documentation in the form of a deposit account statement was submitted showing that the Deposit Account had sufficient funds to cover the charge made.

Applicant's petition on grounds of unavoidable abandonment was denied by a decision dated October 2, 2006. The PTO asserts that according to some procedure involving time stamp transactions and sale sequence numbers, which procedure is unknown to the undersigned, the Deposit Account balance was considered deficient even though the online deposit account statement provided that sufficient funds were available at the time.

Applicant now petitions under Section 137(b) on grounds that abandonment was unintentional. The missing official fee has already been submitted. The required petition fee of \$1,500.00 is submitted herewith by charge authorization for the present petition. This petition contains the required statement that the entire delay was unintentional. A copy of the Decision on the previous petition is submitted to further explain the factual scenario.

Applicant requests revival and examination of the application in the US national phase.

The current balance in the Deposit Account to which the present petition fee is charged is approximately \$24,500.00. This balance is believed more than sufficient to cover the petition fee plus all unexecuted charges that have been made by any user of this Deposit Account. If, however, the PTO somehow determines that the balance is not sufficient, then applicant requests immediate notice to the undersigned by phone or email.

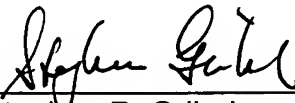
As a result of these circumstances, the aforementioned application went abandoned unintentionally. The factual scenario as well as the express statement of the undersigned support the fact that the entire delay was unintentional. Applicant has paid the required application fees in the amount of \$1750.00. Applicant now petitions

the Commissioner to revive this application under the provisions of 37 CFR 1.137(b) and to charge the required petition fee of \$1500.00 to Deposit Account No. 04-1679.

Date: Oct. 18, 2006

Atty Docket No.: D4700-00394

Respectfully submitted,



Stephan P. Gribok
Registration No. 29,643
DUANE MORRIS LLP
30 South 17th Street
Philadelphia, PA 19103-4196
Telephone: 215-979-1283
Facsimile: 215-979-1020